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and WILLIAM SMITH, on behalf of themselves and
all others similarly situated.

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14 WELLS FARGO BANK, N.A.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

21 Plaintiffs,

22

25 Defendants.

Civil Case No.: C-07-5923 WHA (JCSx)

CLASS ACTION

**STIPULATION AND [PROPOSED]
ORDER RE EXCHANGE OF EXPERT
REPORTS ON DAMAGES**

Hon. William H. Alsup
Complaint filed: November 21, 2007

STIPULATION

WHEREAS, the Court's scheduling order in this case required opening expert reports on issues as to which a party has the burden of proof to be served by February 20, 2009, responsive reports by March 6, 2009, and reply reports by March 13, 2009.

WHEREAS, in a subsequent court-approved Stipulation (Dkt. No. 173), the parties agreed that certain documents were to be produced with expert reports, including workpapers, algorithms, data compilations, and other materials reflecting and illustrating underlying analyses that the expert relied upon in forming or explaining his opinions;

WHEREAS, following Defendant's receipt of expert reports from Plaintiffs' experts on damages (Art Olsen and Charles D. Cowan), Defendant requested that Plaintiffs produce certain computer compilations, workpapers, and other materials relied upon by their experts. The parties met and conferred, and Plaintiffs agreed to produce certain additional information, the production of which was completed on March 4;

WHEREAS, on February 27, 2009, Plaintiffs provided Defendant with a supplemental report from Mr. Olsen, correcting certain data calculations provided in his initial report;

WHEREAS, Plaintiffs had requested that responses to certain interrogatory responses utilized by Dr. Cowan in his damage analysis be supplemented before February 20, 2009. Defendant informed Plaintiffs that it was unable to provide those responses by February 20, 2009, and produced the supplemental responses on February 26, 2009.

WHEREAS, Dr. Cowan relied for his damages calculations on data supplied in the supplemental interrogatory answers from Wells Fargo, as well as the corrected data calculations from Mr. Olsen. Accordingly, on March 4, 2009, Plaintiffs served a supplemental report from Dr. Cowan that incorporated the two sources of additional data into account, and made other changes and additions to his report;

WHEREAS, Defendant's experts have asked for a short amount of additional time to review and respond to Plaintiffs' two supplemental expert reports and the supporting material;

1 WHEREAS, the parties have agreed upon a modest adjustment in future report
2 due date deadlines to complete the exchange of expert reports on damages issues. **The Parties**
3 **are not seeking, nor will it be necessary, to extend the expert discovery cut-off of March**
4 **27, 2009, as a result of this stipulation.** Defendant reserves its right to oppose the offering of
5 any testimony from Plaintiffs' experts in Plaintiffs' case-in-chief that it contends was not
6 properly disclosed.

7 The parties accordingly STIPULATE as follows:

8 1. Wells Fargo shall have until Wednesday, March 11, 2009, to electronically
9 serve the reports of their experts responding to the reports (and supplemental reports) of Mr.
10 Olsen and Dr. Cowan.

11 2. Plaintiff shall have until Monday, March 16, to electronically serve any reply
12 reports from Mr. Olsen or Dr. Cowan (together with any associated workpapers). At this time,
13 the parties have not agreed to exchange or accept any reports after this deadline and no such
14 reports are currently contemplated or permitted.

15 3. **NO OTHER DEADLINES IN THIS CASE SHALL BE AFFECTED.**

16
17 **IT IS SO STIPULATED.**

18
19 DATED: March 5, 2009

COVINGTON & BURLING LLP

20
21 By: 
22 David M. Jolley
23 Attorneys for Defendant

24 DATED: March 5, 2009

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26 McCUNE & WRIGHT, LLP

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28 By: 
29 Richard D. McCune
30 Attorneys for Plaintiffs

1 **ORDER**
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IT IS SO ORDERED.

6 DATED: March 6, 2009
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